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the tax is to be computed on the residue of the property devised and bequeathed to them severally at the rates prescribed by the statute.

Sims, J., dissenting.

*Daniel Grinnan* and *R. E. Scott*, both of Richmond, for appellants.

*The Attorney General* and *O. L. Shewmake*, of Richmond, for appellees.

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MARTIN'S EX'RS *v.* COMMONWEALTH.

Jan. 22, 1920.

[102 S. E. 77.]

**1. Constitutional Law (§ 45\*)—Courts Must Condemn Plainly Invalid Statute.**—Though the courts should approach constitutional questions with caution, they must not, merely for convenience or expediency, hesitate to condemn an act which plainly violates the fundamental law.

[Ed. Note.—For other cases, see 3 Va. W. Va. Enc. Dig. 163, 164.]

**2. Constitutional Law (§ 48\*)—Act Not Showing Exclusive or Discriminative Purpose Prima Facie Valid as Not a Special Act.**—If a statute bears on its face no evidence of an exclusive or discriminative purpose, it is prima facie valid as general and not special legislation.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 163, 169.]

**3. Statutes (§ 73 (2)\*)—Classification by General Law Not Prohibited as Special Legislation.**—Constitutional prohibitions against special legislation do not prohibit classification, but the classification must not be purely arbitrary rather than natural, reasonable, and appropriate to the occasion.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 169.]

**4. Statutes (§ 71\*)—Act General in Form, but Special in Effect, Violative of Prohibition of Special Legislation.**—Though an act is general in form, if it is special in purpose and effect, it violates the spirit of the constitutional prohibition of special legislation.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 749.]

**5. Constitutional Law (§ 48\*)—Assumption of Facts in Favor of Law as General Rather than Special.**—The necessity for and reasonableness of classification by a statute are primarily questions for the Legislature, and if any state of facts can be reasonably conceived that would sustain the act as general rather than special, such facts must be assumed as existing at the time the law was enacted.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 163, 164.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

6. **Constitutional Law (§ 48\*)—Burden to Show Special Character of Act General on Face.**—In any attack upon a statute which is general on its face, the burden is on the assailing party to show that it does not rest upon a reasonable basis and is essentially arbitrary as excluding persons or localities naturally belonging to its operation, and so is special.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 169.]

7. **Statutes (§ 93 (10)\*)—West Fee Bill General, and Not Special, Law.**—The West Fee Bill (Acts 1914, c. 352), creating a commission to investigate the compensation of court clerks, examiners of records, treasurers, commissioners of revenue, sheriffs, etc., and, as a basis for fixing maximum compensation until action on report of the commission, dividing all cities and counties into classes according to their population by the federal census of 1910 alone, not each recurring federal census, held "general," and not "special," legislation, a law arbitrarily separating some persons, places, or things from those on which it would otherwise operate (citing Words and Phrases, First and Second Series, Special Law).

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 169; 12 V.-W. Va. Enc. Dig. 749.]

Error to Circuit Court of City of Richmond.

Motion in the name of the Commonwealth against Alvah Martin, wherein, on death of defendant, the case was revived against his executors. To review judgment for the Commonwealth, the executors bring error. Affirmed.

*Frank L. Crocker*, of Portsmouth, and *Loyall, Taylor & White and Williams & Tunstall*, all of Norfolk, for plaintiffs in error.

*The Attorney General*, for the Commonwealth.

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SHELTON et al. v. SYDNOR, Commonwealth's Att'y.

Jan. 22, 1920.

[102 S. E. 83.]

1. **Courts (§ 1\*)—Definition of "Jurisdiction."**—"Jurisdiction" is the power to adjudicate a case upon the merits, and dispose of it as justice may require, involving jurisdiction of the subject-matter of the litigation, and also of the parties.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Jurisdiction. For other cases, see 8 Va.-W. Va. Enc. Dig. 846.]

2. **Courts (§§ 17, 24, 37 (1)\*)—Jurisdiction of Subject-Matter Can**

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.